

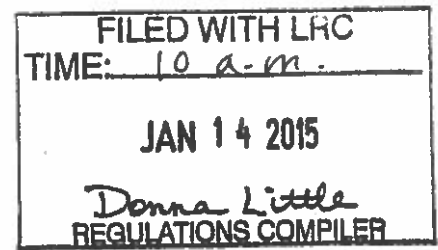
## **301 KAR 3:100**

### **Special commission permits**

The administrative regulation authorizes the Fish and Wildlife Commission to issue special permits to qualified incorporated nonprofit wildlife conservation organizations for the organizations to use as a fund-raising tool to create wildlife conservation projects that enhance fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

#### **Significant Changes**

The amendment clarifies and further defines the definition of an "incorporated nonprofit wildlife conservation organization", clarifies the definition of a "special commission permit", delineates eligibility criteria, limits national conservation organizations and their affiliated regional, state, and local chapters from receiving multiple species-specific permits in a given year, allows an organization to submit a copy of their bylaws in lieu of their articles of incorporation, adds fish and wildlife education as a legitimate conservation project, clarifies when each species-specific permit shall be used, removes the special commission permit for trout from the available permits, and modifies and updates the application form that is incorporated by reference.



1 TOURISM, ARTS AND HERITAGE CABINET

2 Kentucky Department of Fish and Wildlife Resources

3 (Amendment)

4 301 KAR 3:100. Special commission permits.

5 RELATES TO: KRS 150.170, 150.175

6 STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.195(1)

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to  
8 promulgate administrative regulations to establish hunting seasons, bag limits, and the methods  
9 of taking wildlife. KRS 150.177 authorizes the department to issue a special permit to an  
10 incorporated nonprofit wildlife conservation organization. KRS 150.195(1) authorizes the  
11 department to promulgate administrative regulations pertaining to the issuance of licenses and  
12 permits. This administrative regulation establishes the requirements for the issuance and use of  
13 Special Commission Permits.

14 Section 1. Definitions. (1) "Proceeds" means the amount of money received by a wildlife  
15 conservation organization from the sale or transfer of a special permit minus expenses directly  
16 attributable to the sale of that permit.

17 (2) "Incorporated nonprofit wildlife conservation organization" means an entity which:

18 (a) Has a primary purpose, as expressed in its Articles of Incorporation or Bylaws, to conserve  
19 and enhance fish and wildlife resources to provide opportunities for hunting, fishing, trapping,  
20 wildlife education, habitat enhancement, and related activities;

21 (b) Holds status as a nonprofit organization pursuant to 26 U.S.C. Section 501(c)(3); and

1 ~~[(b)]~~ (c) Is incorporated under the laws of this state or any other state; or

2 ~~[(e)]~~ (d) Holds a charter status under an incorporated parent organization~~[-and~~

3 ~~(d) Whose purpose is to:~~

4 ~~1. Conserve and enhance fish and wildlife resources; or~~

5 ~~2. Provide opportunities for hunting, fishing, trapping, or other related activities].~~

6 (3) "Special commission permit" means a species-specific permit ~~[for a species requiring an~~  
7 ~~additional permit in order to hunt or fish which is]~~ issued by the Kentucky Fish and Wildlife  
8 Commission to an incorporated [a] nonprofit wildlife conservation organization that allows the  
9 permit recipient, depending on the species listed on the permit, to harvest:

10 (a) One (1) additional antlered or antlerless deer per license year;

11 (b) One (1) additional turkey of either sex per license year;

12 (c) One (1) elk of either sex per license year; or

13 (d) Up to a daily bag limit of waterfowl per day.

14 Section 2. Issuance, Sale and Transfer of Special Permit. (1) There shall be no more than ten (10)  
15 special commission permits issued per species per year.

16 (2) An ~~[(a) Any]~~ incorporated nonprofit wildlife conservation organization may apply for one (1)  
17 special commission permit per species by accurately completing a Special Commission Permit  
18 Application form provided by the department.

19 (3) ~~[(b)]~~ A national organization and its affiliated regional, state, and local chapters shall all be  
20 eligible to apply for a special commission permit in the same year if ~~[provided that]~~ each  
21 organization meets the qualifications in Section 1(2) of this administrative regulation.

22 (4) A national organization and its affiliated regional, state and local chapters shall not be  
23 eligible to be awarded more than one special commission permit per species unless each

applicant has a separate and distinct nonprofit organization status under 26 U.S.C. §501(c)(3)  
and a separate and distinct tax identification number.

(5) [(3)] In addition to the completed application, the organization shall also submit the following:

(a) 1. One (1) copy of the organization's articles of incorporation or bylaws that state the purpose of the organization; or

2. A separate charter status from a parent organization and the parent organization's articles of incorporation or bylaws that state the purpose of the parent organization;

(b) Written proof of the organization's tax-exempt status including the applicant's ~~individual~~ tax identification number; and

(c) A letter from the organization's parent organization, if applicable, that states that the chapter organization is in good-standing and is recognized by the parent organization.

(6) [(4)] The completed application and accompanying documents listed in subsection (5) [(3)] of this section shall be delivered to the department by May 1 of each year.

(7) [(5)] The items listed in paragraphs (a) through (e) of this subsection ~~following~~ shall be grounds for disqualification from the award ~~consideration~~ process:

(a) An incomplete application;

(b) Incomplete or missing accompanying documents, pursuant to subsection (3) of this section;

(c) Failure to submit the required application and accompanying documents to the department by the May 1 deadline; and

(d) The wildlife conservation organization applicant did not use or transfer a special commission permit awarded in a previous year;

(e) Failure to qualify as an incorporated nonprofit wildlife conservation organization.

(8) ~~[(6)]~~ Prior to selecting special commission permit recipients, the Fish and Wildlife Commission shall review and consider all applications and documents submitted by each wildlife conservation organization that has not been disqualified pursuant to subsection (5) of this section.

(9) ~~[(7)]~~ The department shall provide the Fish and Wildlife Commission with information concerning each applicant's relative standing with regard to:

(a) Content and quality of submitted application materials;

(b) Past compliance;

(c) Ability to generate ~~[matching]~~ funds; and

(d) The proposed conservation project's potential for enhancing ~~[enhanced]~~ fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation in Kentucky.

(10) ~~[(8)]~~ The Fish and Wildlife Commission shall select permit recipients based on the information listed in subsection (9) ~~[(7)]~~ of this section.

(11) ~~[(9)]~~ A Special Commission Permit recipient shall:

(a) Use all proceeds from the sale or transfer of the permit for conservation projects in Kentucky as approved by the Fish and Wildlife Commission;

(b) Underwrite all promotional and administrative costs for the selling and transferring of the permit;

(c) Sell and transfer each permit as stated in the application;

(d) Provide the department with the following information on each individual who receives a transferred permit:

1. Name;

2. Address; and

3. Date of birth; and

(e) Submit, by May 1 of the following year, a report that includes:

1. A financial statement containing:

a. Total funds raised;

b. Overhead costs or expenses related to the sale of the permit; and

c. Net profit;

2. A summary of:

a. The conservation project; and

b. Expenditures related to the conservation project; and

3. A synopsis of the impact the conservation project had on enhancing fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

Section 3. Special Permit Use. (1) A special permit shall only be valid for the:

(a) Individual named on the permit;

(b) Species of wildlife listed on the permit; and

(c) The first season for that species in the calendar year [Next season] following the quarterly commission meeting that the special permit was awarded, except for the special commission permit for deer and for waterfowl, which shall be valid for the first season following the quarterly commission meeting that the special permit was awarded.

(2) A special commission permit holder shall comply with all other department statutes and administrative regulations.

(3) A holder of a special commission permit to hunt deer[:

~~(a) Shall be entitled to take one (1) additional antlered or antlerless deer per license year; and~~

~~(b)]~~ May hunt on any Wildlife Management Area during an open deer season or nonmobility

1 impaired quota hunt pursuant to 301 KAR 2:178, except:

2 (a) ~~[-]~~ Hunting shall not be allowed on closed waterfowl refuges, pursuant to 301 KAR 2:222;

3 (b) ~~[-]~~ A permit holder shall contact the wildlife area manager at least forty-eight (48) hours

4 before hunting; and

5 (c) ~~[-]~~ A permit holder shall notify the area manager upon leaving a Wildlife Management Area.

6 (4) A holder of a special commission permit to hunt wild turkey[=

7 ~~(a) Shall be entitled to take one (1) additional turkey of either sex per license year, in addition to~~

8 ~~the statewide permit limit; and~~

9 ~~(b)] Shall not hunt on a Wildlife Management Area that is closed to turkey hunting.~~

10 (5) ~~[A holder of a special commission permit to hunt elk shall follow the requirements~~

11 ~~established in 301 KAR 2:132.~~

12 ~~(6)] A holder of a special commission permit to hunt waterfowl may hunt on Ballard,~~

13 ~~Boatwright, or Sloughs Wildlife Management Areas from one of the areas' permanent waterfowl~~

14 ~~blinds by:~~

15 (a) Contacting the department no later than September 30; and

16 (b) Reserving a blind for one of the available hunt periods established by the department,

17 pursuant to 301 KAR 2:222.

18 (6) ~~[(7) A holder of a special commission permit to fish for trout shall follow the requirements~~

19 ~~established in 301 KAR 1:060 and 1:201.~~

20 ~~(8)] A holder of any special commission permit may hunt [or fish] on private land with the~~

21 ~~permission of the landowner.~~

22 (7) ~~[(9)] Unless specific equipment is prohibited on a Wildlife Management Area, a special~~

23 ~~permit holder shall only harvest game with hunting equipment that is allowed for the season~~

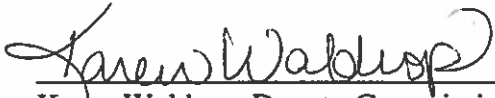
1 during which the permit holder is hunting.

2 Section 4. Incorporation by Reference. (1) "Special Commission Permits Application Form",  
3 2015 [~~2014~~] edition, is incorporated by reference.

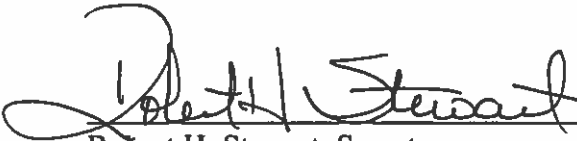
4 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at  
5 the Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky,  
6 Monday through Friday, 8 a.m. to 4:30 p.m.



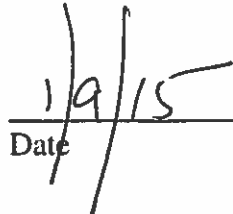
Approved by the Fish and Wildlife Commission



Karen Waldrop, Deputy Commissioner, for  
Gregory K. Johnson, Commissioner  
Department of Fish and Wildlife Resources



Robert H. Stewart, Secretary  
Tourism, Arts and Heritage Cabinet

  
Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on February 23, 2015, at 2 p.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing five business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made.

If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by close of business March 2, 2015.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

Rose Mack  
Department of Fish and Wildlife Resources  
Arnold L. Mitchell Building  
#1 Sportsman's Lane  
Frankfort, KY 40601  
(502) 564-7109, Extension 4507  
FAX (502) 564-9136  
Email: [fwpubliccomments@ky.gov](mailto:fwpubliccomments@ky.gov)

## **REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT**

301 KAR 3:100. Special commission permits.

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: The administrative regulation authorizes the Fish and Wildlife Commission to issue special permits to qualified incorporated nonprofit wildlife conservation organizations for the organizations to use as a fund-raising tool to create wildlife conservation projects that enhance fish and wildlife, habitats, fish and wildlife education, or fish and wildlife-related recreation.

(b) The necessity of this administrative regulation: The administrative regulation is necessary to establish the procedures and requirements for the issuance of special commission permits.

(c) How does this administrative regulation conforms to the content of the authorizing statute: KRS 150.025 authorizes the department to promulgate administrative regulations to establish hunting seasons, bag limits, and the methods of taking wildlife. KRS 150.177 authorizes the department to issue special game permits to incorporated non-profit wildlife conservation organizations. KRS 150.195(1) authorizes the department to promulgate administrative regulations pertaining to the issuance of licenses and permits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation defines the process and criteria for applying for a special permit, the selection process used by the Commission, and report requirements for wildlife conservation organizations.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment clarifies and further defines the definition of an "incorporated nonprofit wildlife conservation organization", clarifies the definition of a "special commission permit", delineates eligibility criteria, limits national conservation organizations and their affiliated regional, state, and local chapters from receiving multiple species-specific permits in a given year, allows an organization to submit a copy of their bylaws in lieu of their articles of incorporation, adds fish and wildlife education as a legitimate conservation project, clarifies when each species-specific permit shall be used, removes the special commission permit for trout from the available permits, and modifies and updates the application form that is incorporated by reference.

(b) The necessity of the amendment to this administrative regulation: The amendment was necessary to limit both national organizations and their regional, state, and local affiliates from being awarded a species-specific permit in a given year, to clarify the definition of an incorporated nonprofit wildlife conservation organization, to require proof of such a status from an organization's articles of incorporation or bylaws, to better define eligible conservation projects, and increases clarity of an organization's award eligibility previous regulation lacked clarity in some areas and it was necessary to better define the entire process, including application requirements, definition of a wildlife conservation organization, and report requirements. The permit application also needed to be modified, updated, and incorporated by reference.

(c) How the amendment conforms to the content of the authorizing statutes: See 1(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See 1(d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments affected by this administrative regulation: In 2014, there were approximately 24 wildlife conservation organizations that applied for at least one permit. Eighteen organizations received at least one permit. It is expected that 15 to 30 wildlife organizations will be affected by this regulation in a given year.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Each incorporated nonprofit wildlife conservation organization will need to meet eligibility requirements, follow the application and reporting procedures and requirements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is not a cost to comply with this administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The conservation organizations that receive a permit will benefit by using the permit for fund-raising events that will in turn be used for wildlife conservation projects, thus furthering their missions in Kentucky. The amendment will also allow increased opportunity for multiple non-government organizations to be awarded permits in a given year.

(5) Provide an estimate of how much it will cost to implement the administrative body to implement this administrative regulation:

(a) Initially: There will be a small cost to administer and coordinate the permit application and selection process.

(b) On a continuing basis: There will be a small cost to the agency on a continuing basis to administer.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation? The source of funding is the State Game and Fish Fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees directly or indirectly nor does it increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as all incorporated nonprofit wildlife conservation organizations applying for special permits are treated the same.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 301 KAR 3:100

Contact Person: Rose Mack

Phone number: (502) 564-3400

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Fisheries Division, Wildlife Division, and Administrative Services Division of the Department will be impacted.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.025, 150.177, and 150.195(1).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated for the first year.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be a small cost associated with administering and coordinating this regulation for the first year.

(d) How much will it cost to administer this program for subsequent years? There will be a small cost in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-): A small cost relative to employees' time about once a year, plus some mailing costs.

Other Explanation:

### **Summary of Material Incorporated by Reference**

- (1) The "Special Commission Permits Application Form", 2015 edition, is a two page, letter-size form that any nonprofit incorporated wildlife conservation organization must complete and submit to the Kentucky Department of Fish and Wildlife Resources if they wish to apply for a special commission permit.